
**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GERALD A. BERRY,)
)
)
Plaintiff,) No: 07 CV 6282
)
vs.) Judge Der-Yeghiayan
)
JOHN E. POTTER, POSTMASTER GENERAL OF) JURY DEMAND
THE UNITED STATES POSTAL SERVICE and)
AMERICAN POSTAL WORKERS and AMERICAN)
POSTAL WORKERS UNION LOCAL 7011,) Magistrate Judge Nolan
)
Defendants.)

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff, GERALD A. BERRY, by and through his attorneys, Michael T. Smith and Gary Abrams, and after leave of court to amend his complaint, and in complaining of the Defendants as follows:

JURISDICTION AND VENUE

1. Plaintiff brings this as an action against Defendant, JOHN E. POTTER, POSTMASTER GENERAL OF THE UNITED STATES POSTAL SERVICE ("USPS") for discharge in violation of a collective bargaining agreement; against Defendant, AMERICAN POSTAL WORKERS UNION, AFL-CIO ("APWU") and against Defendant, O'HARE AMC LOCAL 7011 branch of the (APWU (" Local 7011") for breach of its duty of fair representations of a members.
2. This action arises and the jurisdiction of this Court is based upon, Section 301 of the Management Relations Act, as amended, 29 U.S.C. § 185.

3. Plaintiff has exhausted all administrative remedies provided for the parties' collective bargaining agreement and has timely filed this suit after Plaintiff received notice of the breach of duties owed under the collective bargaining agreement by USPS, and APWU and LOCAL 7011 after receipt of notice of not receiving fair representation by his Union.

VENUE AND THE PARTIES

4. Plaintiff resides at 1906 S. Ridgelend Avenue, Berwyn, Illinois 60402.
5. Plaintiff is a citizen and resident of Cook County, Illinois.
6. At all times relevant, John E. Potter served in the capacity of Postmaster General of the United States Postal Service.
7. Defendant Local APWU No. 7011 is a labor organization of which the Plaintiff at all relevant times, was a member in good standing.
8. Defendant Local APWU No. 7011 is a not-for-profit corporation in Illinois with its principle place of business located in Cook County, Illinois.
9. Defendant APWU is the parent organization of Local APWU No. 7011 and has a responsibility to protect the rights of its local members.
10. At all times relevant herein, Defendant USPS and Defendants APWU and Local APWU No. 7011 were parties to a written collective agreement, entitled "Agreement between American Postal Workers Union, AFL-CIO and U.S. Postal Service" hereinafter referred to as "Collective Agreement."
11. At all times relevant herein, the Collective Agreement governed the terms and conditions of Plaintiff's employment with Defendant USPS.

AS AND FOR A FIRST CAUSE OF ACTION

DEFENDANT USPS' BREACH OF COLLECTIVE AGREEMENT

12. Paragraphs I through 11 are incorporated herein by reference.
13. Plaintiff began his employment with Defendant USPS in July of 1990..
14. At all times relevant herein, Plaintiff was employed by Defendant USPS at the Castleton, Indiana branch location as a full time employee in the registry department performing duties associated with the clerk mail that is registered and insured.
15. On or about March 3, 2006, Defendant breached the Collective Agreement when it summarily terminated Plaintiff's employment, without just cause, in violation of the Collective Agreement and, at all times since that date. Further, justification to terminate Plaintiff came from inaccurate dates (See Exhibits A & B) from violation of a Last Chance Agreement between USPS, the Union, and the Plaintiff which dates were contrary to the evidence presented by Plaintiff. Defendant USPS has refused to reinstate Plaintiff to his former position of employment.
16. As a direct and proximate result of the breach of the Collective Agreement by Defendant USPS Plaintiff has been damaged by loss of his employment in a sum which she would have earned from such employment had Defendant USPS not wrongfully terminated Plaintiff; additionally, Plaintiff has been damaged by loss of seniority, loss of fringe benefits, loss of other benefits to which he was entitled under the Collective Agreement, physical hardship, and severe and continuous emotional distress.

WHEREFORE Plaintiff GERALD A. BERRY, by counsel, respectfully prays the Court to advance this case on the docket and expedite it in every way to issue a judgment that Defendant USPS' acts, policies, practices, and procedures complained of herein violated Plaintiffs rights under Section 301 of the Labor Management Relations Act; to award Plaintiff back pay, future pay, compensatory relief in the form of emotional pain, suffering, inconvenience, mental anguish, and lose of enjoyment of life and consequential

damages to make him whole; to enjoin Defendants from the same discriminatory conduct in the future; to grant Plaintiff the costs of this action and attorney fees; to grant Plaintiff a jury trial on those issues triable by jury; and to allow such additional relief as the Court deems just and proper.

AS AND FOR A SECOND CAUSE OF ACTION

BREACH OF DUTY OF FAIR REPRESENTATION BY DEFENDANTS
APWU AND LOCAL 7011

17. Plaintiff incorporates paragraphs I through 16 herein by reference.
18. At all times material herein, Defendants APWU and Local APWU No. 7011 owed a duty of fair representation to all members of APWU Local No. 7011, including the Plaintiff, i.e. the duty to represent Plaintiff and all other members of APWU in the administration of the Collective Agreement without arbitrary discrimination.

19. APWU Local No. 7011 breached its duty of fair representation when the National Business Agent for APWU entered into an Agreement to Withdraw Plaintiff's Grievance on September 20, 2006 without his knowledge and to his detriment after receipt of evidence to the unions various officials of a complete defense to Plaintiff's Removal process. Plaintiff had no knowledge of said withdrawal of his grievance until he received a letter on May 12, 2007, from APWU dated May 10, 2007. (See Exhibit "A" and "B")
20. Defendants APWU and Local APWU No. 7011 breached their duty of fair representation as follows:

- a) On or about November 10, 2004, APWU No. 7011 and USPS reached an agreement that would allow Plaintiff to remain employed under a Last Chance Agreement ("Agreement") which Plaintiff was required to sign so as to maintain employment with USPS. APWU allowed the Agreement, (which is part of the

current issues with APWU). The most important part, among other things, was that APWU was allowing, as part of the verbiage under paragraph 3, that Plaintiff could violate the provision of the agreement, even if Plaintiff had emergency leave requirements. See Exhibit C.

- b) On or before October 31, 2005, due to circumstances beyond Plaintiff's control, Plaintiff was scheduled to spend 5 days in County jail. Prior to that date of incarceration, Plaintiff with his union steward did approach Plaintiff's Plant Manager to request mandatory time off because plaintiff was under a court order to turn himself in for a mandatory jail sentence. After meting with the union steward and Plant Manager for USPS, the Plant Manager denied Plaintiff's request for mandatory time off. Plaintiff therefore, in order to comply with the court order of incarceration, had to take time off without approval, otherwise he would face being picked up my the Sheriff's Office. Upon leaving the meeting Plaintiff requested his steward to take action since this would violate Plaintiff's Last Chance Agreement, wherein, Patrick Parks, Plaintiff's union steward, indicated there was nothing he could do to protect Plaintiff. Plaintiff informed his union steward that he (Plaintiff) believed he was being discriminated against because of his color (African-American) and wanted to file a complaint with the EEO, for which the union steward told Plaintiff not to do that because it could make things worse for himself (Plaintiff). At no time after this meeting with the Plant Manager, the union steward and Plaintiff, did the union attempt to protect Plaintiff from the unfair, unreasonable and discriminatory action of the Plant Manager for the USPS.

c) That on the 11th day of January, 2006, Plaintiff was issued a removal notice by the USPS for violating a Last Chance Settlement Agreement stating that Plaintiff had violated the Last Chance Agreement because of unscheduled absences on:

- 1) 08-27-08-31-05
- 2) 12-26-05
- 3) 01-02-06
- 4) 01-09-06

See Exhibit D.

d) Plaintiff contacted union steward and presented the union steward with evidence, including time clock records, payroll records, and dispatch data, showing that on 1) 08-27-05 through 08-31-05, Plaintiff did for work on August 29, 2005, wherein he swiped his card for Registered Mail Dispatch Bill (See group Exhibit E; 2) 12-26-06, Plaintiff worked and was paid for said day (See Exhibit F; Plaintiff's paycheck stub); 3) 01-02-06, Plaintiff worked on said day and swiped and had his records of swipes for that day and other which appeared on a Report (See Group Exhibit G; History Report 12/31/05 to 01/3/06); 01/09/06, Plaintiff called in sick and had an approved day. After receipt and review of Exhibit D, Plaintiff took action and filed grievances for the wrongful issuance of a Removal. Plaintiff presented all the information and evidence to support the wrongful removal.

e) After Plaintiff challenged the wrongful issuance of the Removal (Exhibit D), the Union allowed USPS to issue another Removal wherein the dated where changed as follows:

10-31-05 to 11-04-05

01-02-06
01-09-06

(Exhibit H)

- f) Plaintiff again contacted his union steward to challenge these wrongful assertions. Plaintiff called upon his steward to grieve these dates as having already responded with evidence to support the wrongful assertions for the dates of 01-02-06 and 01-09. Further, Plaintiff reminded his union steward of Plaintiff's required jail sentence for a DUI which caused his incarceration 10-31-05 through 11-04-05, as a court mandated jail sentence.
- g) Thereinafter, all issues went through the appropriate grievance procedures until, the scheduling of an Appeal to Arbitration was scheduled June 27, 2006. Thereafter, even though Plaintiff had presented evidence to support the wrongful Removal procedure, on September 20, 2006 a settlement and an agreement to withdraw the arbitration was agreed to between the Union and USPS such agreement being entered into a withdrawal of Plaintiff's grievance without the consent or knowledge of Plaintiff;

21. Defendants APWU and Local APWU No. 7011 violated Members' Bill of Rights by breaching its statutory duty of fair representation after Union Stewart Zachery Lucas to file grievances for the Plaintiff at his request.

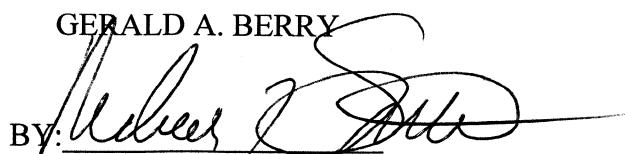
22. In bad faith and without just cause APWU and Local APUM No. 7011 disregarded all the proper evidence presented to defeat the false allegations contained in both Notice of Removal issued by the USPS. Further, Defendants APWU and Local APWU No. 7011 of the Union and it's agents in terminating the arbitration procedure without Plaintiff's knowledge and for treatment of the Plaintiff was capricious, arbitrary, and discriminatory

and failed to properly represent Plaintiff.

23. As a direct and proximate result of the breach by Defendants APWU and Local APWU No. 7011, of their duty of fair representation to Plaintiff, as herein alleged, Plaintiff has been damaged due to his termination by Defendant USPS in a sum which he would have earned from such employment had Defendant USPS not wrongfully terminated Plaintiff; additionally, Plaintiff has been damaged by loss of his seniority, loss of fringe benefits, loss of other benefits to which he was entitled under the Collective Agreement, physical hardship, and severe and continuous emotional distress.

WHEREFORE Plaintiff, GERALD A. BERRY, by counsel, respectfully prays the Court to advance this case on the docket and expedite it in every way to issue a judgment that Defendants APWU and Local APWU No. 7011 acts, policies, practices, and procedures complained of herein violated Plaintiffs rights under Section 301 of the Labor Management Relations Act; to award Plaintiff back pay, future pay, compensatory relief in the form of emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life, and consequential damages to make him whole; to enjoin Defendants from the same discriminatory conduct in the future; to grant Plaintiff the costs of this action and attorney fees; to grant Plaintiff a jury trial on those issues triable by jury; and to allow such additional relief as the Court deems just and proper.

GERALD A. BERRY

BY: 

Michael T. Smith
Trial Attorney

Michael T. Smith #
440 W. Irving Park Road
Roselle, IL 60172
(847) 895-0626

Gary Abrams
55 W. Monroe
12th Floor
Chicago, IL 60603

American Postal Workers Union, AFL-CIO**John R. Clark****Percy Harrison, Jr.****Lynn Pallas-Barber**

National Business Agents
 330 S. Wells St. Suite 810
 Chicago, IL 60606
 (312) 663-0975 (office)
 (312) 663-3181 (fax)

National Executive Board

William Burrus
 President

Cliff "C. J." Guffey
 Executive Vice President

Terry Stapleton
 Secretary-Treasurer

Greg Bell
 Industrial Relations Director

James "Jim" McCarthy
 Director, Clerk Division

Steven G. "Steve" Raymer
 Director, Maintenance Division

Robert C. "Bob" Pritchard
 Director, MVS Division

Sharyn M. Stone
 Central Region Coordinator

Jim Burke
 Eastern Region Coordinator

Elizabeth "Liz" Powell
 Northeast Region Coordinator

William "Bill" Sullivan
 Southern Region Coordinator

Omar M. Gonzalez
 Western Region Coordinator

May 10, 2007

Mr. Gerald A. Berry
 1906 S. Ridgeland Ave.
 Berwyn, IL 60402

Re: Case # J00C1JD06075560, Local # JMAMC06011, BA# 66678

Dear Mr. Berry:

This is in response to your letter dated 05/06/07. It is noted that no documents were attached to your letter. Pursuant to your request, attached you will find a copy of the moving papers for the above referenced grievance, including:

1. Notice of Removal (Last Chance Agreement) dated 11/10/04
2. Notice of Removal dated 1/18/06
3. Step 2 Grievance Appeal Form dated 2/07/06
4. Step 2 Decision dated 3/14/06
5. Step 3 Grievance Appeal Form dated 3/21/06
6. Step 2 Appeal to Arbitration Grievance Form dated 3/21/06
7. Arbitration scheduling letter dated 6/27/06
8. Local Certification-Direct Appeal letter dated 9/8/06
9. Settlement/withdrawal agreement dated 9/20/06

If you have any questions about this matter you can contact me at tel. # 312-663-0975.

Wishing you the best of luck in your future endeavors,

Sincerely,

John R. Clark
 National Business Agent, APWU

Attachments

cc: V. Fleming
 file

JRC/pf

Exhibit A

PRE-ARBITRATION SETTLEMENT

Regional No.: J00C-1J-D-06075560

NBA No.: 66678

Local No.: JM-AMC-06-011

Grievant: Gerald Berry

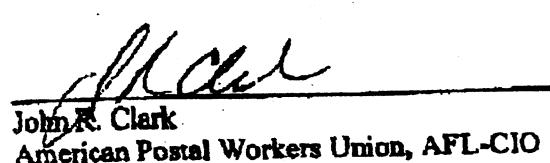
Location: AMC O'Hare

As a final and complete settlement of the above referenced grievance and without prejudice to the position of either party in any other case the above referenced grievance has been resolved on the basis that the Union withdraws this case from the grievance/arbitration procedure.



Gregory Phadison
United States Postal Service

9/20/06
Date



John R. Clark
American Postal Workers Union, AFL-CIO

9/20/06
Date

Exh. b, T B



Date: NOVEMBER 10, 2004

SUBJECT: NOTICE OF REMOVAL (LAST CHANCE AGREEMENT)

TO: GERALD A. BERRY SSN: 334-62-1669
FULL-TIME REGULAR CLERK P/L: 114

On Monday, November 8, 2004, Gerald Berry, and Plant Manager, Gerald Kubick, met to discuss the status of his Notice of Removal dated November 3, 2004, for **Failure to Maintain a Regular Attendance Record**.

The Notice of Removal will be reduced to a Long Term Suspension, time served; no back pay.

You have agreed to the following stipulations:

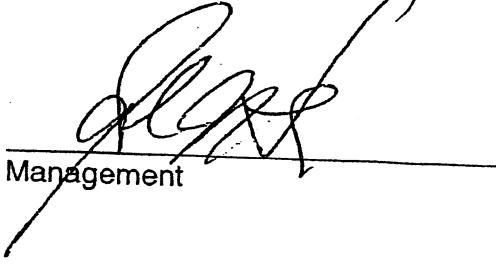
1. I agree to meet with EAP and follow any and all recommendations made by EAP. The EAP appointment must be made within Seven (7) days after signing this agreement.
2. I agree to sit down with MDO, Olivia Martinez, every 30 days to discuss my job responsibilities and to discuss the status of my attendance and job performance.
3. I agree to maintain satisfactory attendance during the terms of this agreement. "Satisfactory attendance" for the purpose of this agreement is defined as "no more than three(3) unscheduled absences during any six (6) month period of this agreement." That also means no instances of AWOL. Unscheduled absences are defined for the purpose of this agreement as "any absence not scheduled and approved in advance of the employee's scheduled reporting time and it includes but is not limited to, tardiness, emergency leave (such as emergency, annual, or sick leave), leave without pay (LWOP), and failure to report/remain as scheduled for overtime work or holiday work."
4. I agree that future performance deficiencies, including but not limited to, leaving my duty station or not performing my assigned duties will be grounds for removal. Further, I agree that any instances of being absent from my assignment without permission, any instance for failure to follow instructions, or any AWOL, will constitute violation of this settlement agreement and will be grounds for removal.
5. I agree to meet all terms and conditions listed in this agreement for a period of two (2) years from the date of the signing of this agreement.

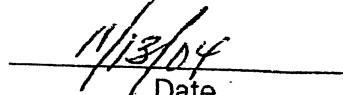
- 2 -

6. It is agreed by all parties to this agreement that any violation of the terms or conditions of this agreement will result in the re-issuance of a removal. It is further understood that this settlement agreement constitutes an absolute **last chance** to remedy any **conduct and attendance problems**.
7. There will be no compensation as a result of this settlement.

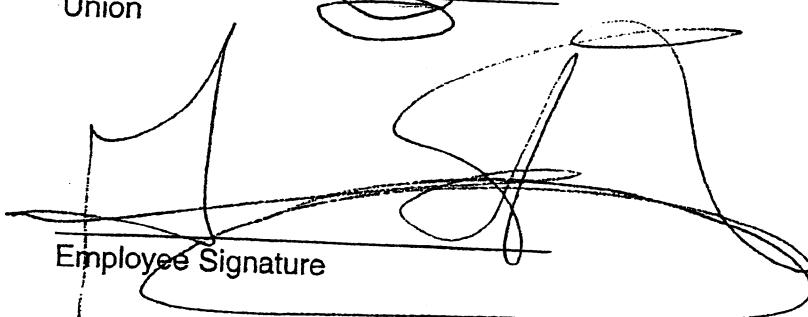
I Gerald Berry, have read and understood the conditions and restrictions set forth in this settlement agreement. I am mentally and physically fit so as to be able to understand this agreement in its entirety. I freely sign this agreement without reservation, duress, or coercion on the part of anyone. I agree to abide by the terms of this agreement.

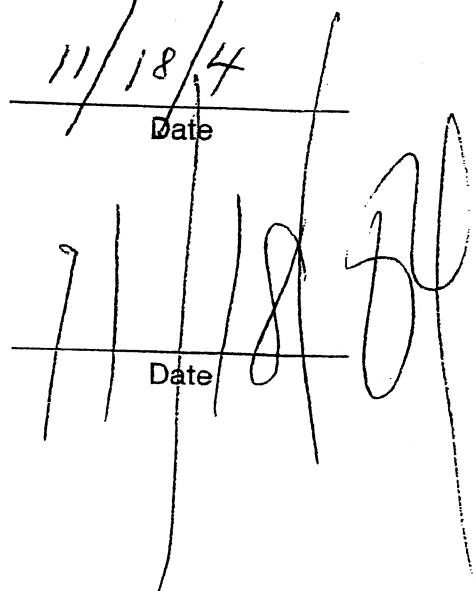
I agree to voluntarily withdraw any outstanding complaints or appeals, and to request that any grievances be withdrawn. It is understood that this settlement is contingent upon those complaints, appeals, or grievances being withdrawn.


Management


Date
11/13/04


Union


Employee Signature


Date
11/18/04



NON - VETERAN PREFERENCE ELIGIBILITY

January 11, 2006

SUBJECT: NOTICE OF REMOVAL

TO: Gerald A. Berry
F.T. Regular Clerk

SSN: 334 62 1669
Pay Location 114

You are hereby given not less than thirty (30) days advance written notice of your removal from the Postal Service. The reason (s) for this removal action are:

You are charged with **Violating the Last Chance Settlement signed by you on November 18, 2004**, as evidenced by your unscheduled absences on:

01-09-06	8.00hrs. A/L
01-02-06	8.00hrs. AWOL
12-26-05	8.00hrs. AWOL
08-27-05 – 08-31-05	40.00hrs. A/L

In addition as outlined below, you violated the Last Chance Removal Settlement stipulations.

3. You agreed to maintain satisfactory attendance during the term of this agreement. "Satisfactory attendance" for the purposes of this agreement is defined as no more than three (3) unscheduled absences during any six (6) month period of this agreement. That also means no instances of AWOL. Unscheduled absences are defined for the purposes of this agreement as "any absence not scheduled and approved in advance of your scheduled reporting time and it includes but is not limited to, tardiness, emergency leave (such as emergency annual or sick leave), leave without pay (LWOP) and failure to report/remain as scheduled for overtime work or holiday work."
5. You agree to meet all terms and conditions listed in this settlement for a period of two (2) years from the signing of this settlement.
6. It is agreed by all parties to this agreement that any violation of the terms or conditions of this agreement will result in the re-issuance of a removal. It is further understood that this settlement-agreement constitutes a **Last Chance** for you to correct your attendance problems.

EXHIBIT D

The following elements of your past record have been reviewed in taking this action:

04-23-04 **Fourteen (14) day Suspension for Failure to Maintain a Regular Attendance Record.**

11-05-03 **Fourteen (14) day Suspension for Conduct Unbecoming.**

11-21-02 **Seven (7) day Suspension for Failure to Maintain a Regular Attendance Record.**

01-24-02 **Seven (7) day Suspension for Failure to Maintain a Regular Attendance Record.**

01-24-01 **Letter of Warning for Failure to Maintain a Regular Attendance Record.**

You have the right to file a grievance under the Grievance -Arbitration procedure set forth in Article 15, Section 2 of the National Agreement within 14 days of your receipt of this notice.

If this action is overturned on appeal, back pay will be allowed, unless otherwise specified in the appropriate award or decision, **ONLY IF YOU HAVE MADE REASONABLE EFFORTS TO OBTAIN OTHER EMPLOYMENT DURING THE RELEVANT NON-WORK PERIOD.** The extent of documentation necessary to support your back pay claim is explained in the ELM, Section 436 (copy attached).



SIGNATURE OF SUPERVISOR

Edwin Muniz

**Supervisor Distribution Operations
Tour 1 Leave Control**

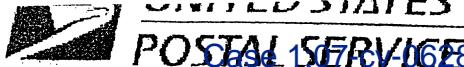


APPROVAL OF INSTALLATION

HEAD OR DESIGNEE

RECEIVED BY EMPLOYEE

DATE 1/10/06 **TIME** _____



Case 107-CV-06282 Document 23 Filed 08/29/05 Page 15 of 28

Registered Mail Dispatch Bill
Con-Con Container

Rotary Lock/Seal No: S280127-0042 Jacket No:

Bill No: Page No: 1 of 1 Airmail:

Control No: Bulk Count: 0 Wgt.:

To: LOS ANGELES P&DC-90052-9998
(Post Office)

REGISTERS

Postmark of
OHARE AMC

Postmark of
OHARE AMC

08/29/2005
Dispatching Office

08/29/2005
Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
1 ØRB886682172US	40253 LAX	2 \$79272839	43218 LAX
3 \$79449176	14692 LAX	4 \$78578027	13220 LAX
5 \$78577982	13220 LAX	6 \$79449180	14692 LAX
7 \$43105415	40231 LAX	8 \$43105411	40231 LAX
9 \$76934070	60607 LAX		

Jacket No.

S280127-0042

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

total of 9 articles sent by this dispatch	POSTMASTER	Postmark of	Postmark of
total of articles received by this dispatch	POSTMASTER	Receiving Office	Receiving Office

(Printed by: G. Berry) Dispatching Clerk

Receiving Clerk

S Form 3854-A, November 1993
Printed 08/29/2005 5:40 am

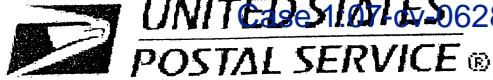


Dispatch Site: OHARE AMC

300179.000062

Form ID: 300179.000062
Printed: 08/29/2005 5:40 am

Exhibit Group E



Case# 07-cv-06282

Document 23 Filed 03/27/2008 Page 16 of 28

Registered Mail Dispatch Bill
Con-Con Container

Rotary Lock/Seal No: **S312021-0023** Jacket No:

Bill No: Page No: **1 of 1** Airmail:

Control No: Bulk Count: **0** Wgt.:

To: **LOS ANGELES P&DC-90052-9998**
(Post Office)

REGISTERS

Postmark of
OHARE AMC08/29/2005
Dispatching OfficePostmark of
OHARE AMC08/29/2005
Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
1 øRA944740535US	14830 LAX	2 øR0450	DENMARK LAX
3 øR0599	DENMARK LAX	4 øRR713016768	SVERIGE LAX

Bill No.

A.M. Rte. & Flt. No.

Jacket No.

S312021-0023

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of **4** articles
sent by this dispatch

POSTMASTER

(Printed by: G. Berry) Dispatching Clerk

Postmark of

Postmark of

A total of articles
received by this dispatch

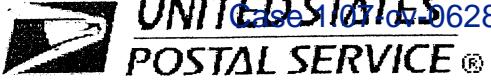
POSTMASTER

Receiving Office

Receiving Office

Receiving Clerk





Case 1070406282

FINAL GATE
Document 23 Filed 03/27/2008
Registered Mail Dispatch Bill

EXHIBIT F2

Page 17 of 28

Rotary Lock/Seal No:	Jacket No:	REGISTERS	Postmark of	Postmark of
Bill No:	Page No: 1 of 1 Airmail:UA Flight 109		OHARE AMC	OHARE AMC
Control No:	Bulk Count: 0 Wgt.: 320#		08/29/2005	08/29/2005
To:	LOS ANGELES P&DC-90052-9998 (Post Office)		Dispatching Office	Dispatching Office
Article Number	Origin/Destinatior	Article Number	Origin/Destinatio	
1 ¢S280127-0042 104#	60666 LAX	2 ¢S28/6732-0056 107#	60666 LAX	Bill No.
3 ¢S312021-0023 45#	60666 LAX	4 ¢S132093-0112 64#	60688 LAX	A.M. Rte. & Flt. No.

Jacket No.

Rotary Lock/Seal No.

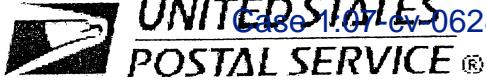
Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of 4 articles sent by this dispatch	POSTMASTER (Printed by: G. Berry) Dispatching Clerk	Postmark of	Postmark of
A total of articles received by this dispatch	POSTMASTER Receiving Clerk	Receiving Office	Receiving Office



300182.000062



Case 1:07-cv-06282

Document 23 Filed 03/27/2008

EXHIBIT F2

Registered Mail Dispatch Bill
Orange Nylon Pouch

Rotary Lock/Seal No:	72956899	Jacket No:	REGISTERED	Postmark of OHARE AMC	Postmark of OHARE AMC
Bill No:		Page No: 1 of 2 Airmail:		08/29/2005	08/29/2005
Control No:		Bulk Count: 36 Wgt.:		Dispatching Office	Dispatching Office
To:	LOS ANGELES P&DC-90052-9998 (Post Office)				

Article Number	Origin/Destination	Article Number	Origin/Destination	
1 RB342811025US		2 RA186418514US		Bill No.
3 RB986460845US		4 RB731097839US		
5 RT818736866CA		6 RT726900941CA		A.M. Rte. & Flt. No.
7 RT659896028CA		8 RT670898808CA		
9 RT932716865CA		10 RT620843660CA		Jacket No.
11 RT859723235CA		12 RT860579266CA		72956899
13 RT819047749CA		14 RT861037332CA		Rotary Lock/Seal No.
15 RT483293671CA		16 RT930502487CA		
17 RT933079317CA		18 RT053770685CA		Received articles described on above specified bill from dispatching office named in postmark.
19 RT860751542CA		20 RT819343684CA		
21 RT863781702CA		22 RT819343675CA		Receiving Clerk
23 RT863782107CA		24 RT821881259CA		
25 RT702304406CA		26 RT817759976CA		
27 RT820033702CA		28 RT932706148CA		
29 RT705829717CA		30 RT861225401CA		

A total of 69 articles sent by this dispatch	POSTMASTER	(Printed by: G. Berry) Dispatching Clerk	Postmark of	Postmark of
A total of articles received by this dispatch	POSTMASTER		Receiving Office	Receiving Office
		Receiving Clerk		



300172.000062



Case 1:07-cv-06282

Document 23

Filed 03/27/2008

Page 19 of 28

**Registered Mail Dispatch Bill
Con-Con Container**Rotary Lock/Seal No: **S286732-0056** Jacket No:Bill No: Page No: **1 of 1** Airmail:Control No: Bulk Count: **0** Wgt.:To: **LOS ANGELES P&DC-90052-9998**
*(Post Office)***REGISTERS**Postmark of
OHARE AMCPostmark of
OHARE AMC

08/29/2005

08/29/2005

Dispatching Office

Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
1 \$70687567	60666 LAX	2 \$72956899	60666 LAX

Bill No.

A.M. Rte. & Flt. No.

Jacket No.

S286732-0056

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of **2** articles
sent by this dispatch

POSTMASTER

Postmark of

Postmark of

(Printed by: G. Berry)

Dispatching Clerk

A total of articles
received by this dispatch

POSTMASTER

Receiving Office

Receiving Office

Receiving Clerk

**300180.000062**



Case 1:07-cv-06282

Document 23

Filed 03/27/2008

Page 20 of 28

Registered Mail Dispatch Bill

Orange Nylon Pouch

Rotary Lock/Seal No: **70687567** Jacket No:

Bill No: Page No: **1 of 1** Airmail:

Control No: Bulk Count: **32** Wgt.:

To: **LOS ANGELES P&DC-90052-9998**
(Post Office)

REGISTERS

Postmark of
OHARE AMCPostmark of
OHARE AMC08/29/2005
Dispatching Office08/29/2005
Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
----------------	--------------------	----------------	--------------------

1 RB910276821US

Bill No.

A.M. Rte. & Flt. No.

Jacket No.

70687567

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of **33** articles
sent by this dispatch

POSTMASTER

(Printed by: G. Berry)

Dispatching Clerk

Postmark of

Postmark of

A total of articles
received by this dispatch

POSTMASTER

Receiving Office

Receiving Office

Receiving Clerk

PS Form 3854-A, November 1993

Printed 08/29/2005 3:47 am



Dispatch Site: OHARE AMC

300171.000062

Form ID: 300171.000062

Printed: 08/29/2005 3:47 am



UNITED STATES

Case 1:07-cv-06282

Document 23

Filed 03/27/2008

EXHIBIT F2

Registered Mail Dispatch Bill

Orange Nylon Pouch

Rotary Lock/Seal No:	72956899	Jacket No:		Postmark of OHARE AMC	Postmark of OHARE AMC
Bill No:	Page No: 2 of 2	Airmail:			
Control No:	Bulk Count: 36	Wgt.:		08/29/2005	08/29/2005
To:	TOS ANGELES P&DC-90052-9998 (Post Office)			Dispatching Office	Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
31 RT822127518CA		32 RT668304559CA	
33 RT864306245CA			

Bill No.

A.M. Rte. & Flt. No.

Jacket No.

72956899

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of 69 articles sent by this dispatch	POSTMASTER (Printed by: G. Berry)	Postmark of OHARE AMC	Postmark of OHARE AMC
A total of articles received by this dispatch	POSTMASTER Receiving Clerk	Receiving Office	Receiving Office

PS Form 3854-A, November 1993

Printed 08/29/2005 3:55 am

Dispatch Site: OHARE AMC



300172.000062

Form ID: 300172.000062

Printed: 08/29/2005 3:55 am

PAYLOC	FINANCE NO.	EMPLOYEE NAME	02909813	01 06	0034701
DETAIL EARNINGS			EMPLOYEE ID	PAY PERIOD	SERIAL NUMBER
MK	RSC/LEV	RATE	CODE	HOURS	PAY
2 P 05	45997	110 V	305	13489	GROSS TO NET
2 P 05	45997	110 W	3042	67270	THIS PERIOD
2 P 05	45997	110 O	600	19903	GROSS PAY
2 P 05	45997	110 N	2582	4080	FED TAXES
1 P 05	45997	110 S	800	4423	ST TAX TSOI
1 P 05	45997	110 C	800	26537	RETIRE. &
1 P 05	45997	110 W	3200	70764	MEDICARE
1 P 05	45997	110 O	29	962	IN325
1 P 05	45997	110 N	3233	5108	ALOT
		L 1600	35382	35382	ALOT
			TSPLE		6800
			CS/SS	15231	1253
			CS/SS	21277	15231
			HP105	6421	21277
			S0SEC	14973	BALANCE
		ELSA	4029		73217
					LEAVE WITHOUT PAY
					THIS PP
					14973
					CUMULATIVE
					158
					BOND UNAPPL BAL #ISSUED
					EE.
				1	USPS RETIREMENT
					4395.01
			NET PAY	1581.91	NT BK

PS FORM 1223-B, UUNE 1985 ERNINGS STATEMENT
 14000124010351
 MANAGER
 US POSTAL SERVICE
 11600 W IRVING PARK RD
 CHICAGO IL 60666-9998

DATE 01-13-2006
 00034701

*****AUTO** 3-DIGIT 606
 GERALD A BERRY
 4948 W GLADYS AVE
 CHICAGO IL 60644-5282
 EX b, b, T f

EXHIBIT F**ALL ACCESS ATTEMPTS HISTORY REPORT****Selected Cardholders****between 12/31/2005 12:00:00AM and 1/3/2006 11:59:59PM****Access Attempts for 1/2/2006**

<u>Time</u>	<u>Description</u>	<u>Cardholder Name</u>	<u>Device</u>	<u>Area</u>	<u>Deleted</u>
11:01:04PM	Valid Entry	Berry, Gerald A	IN	38 - AMC Employee Entrance Turnstile South	No
11:03:46PM	Valid Exit	Berry, Gerald A	OUT	16 - AMC Employee Entrance Turnstyle South	No
11:05:47PM	Valid Entry	Berry, Gerald A	IN	38 - AMC Employee Entrance Turnstile South	No
11:13:33PM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	49 - AMC-ALL EMPLOYEES	No
11:32:00PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:34:07PM	Access Denied - Anti-passback Violation on entry attempt	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:34:26PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:37:52PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:39:31PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:41:27PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:46:07PM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No

Total for 1/2/2006: 11**Access Attempts for 1/3/2006**

<u>Time</u>	<u>Description</u>	<u>Cardholder Name</u>	<u>Device</u>	<u>Area</u>	<u>Deleted</u>
12:28:33AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
12:30:20AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
12:31:32AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
12:46:04AM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
12:53:37AM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
12:54:04AM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
2:13:37AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
2:13:58AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
3:07:57AM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
3:08:34AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
3:29:10AM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
3:46:06AM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No

CARDHOLDERS**Access Attempts for 1/3/2006**

<u>Time</u>	<u>Description</u>	<u>Cardholder Name</u>	<u>Device</u>	<u>Area</u>	<u>Deleted</u>
4:22:48AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
5:07:14AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
5:12:05AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
6:02:28AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
6:13:38AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
6:40:31AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
7:38:25AM	Valid Exit	Berry, Gerald A	25 - AMC Registry Cage N & D IN	52 - AMC-REGISTRY	No
9:16:41AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
9:41:15AM	Valid Exit	Berry, Gerald A	40 - AMC Employee Entrance Turnstile North OUT	49 - AMC-ALL EMPLOYEES	No
11:03:17PM	Valid Entry	Berry, Gerald A	38 - AMC Employee Entrance Turnstile South IN	49 - AMC-ALL EMPLOYEES	No
11:05:13PM	Valid Exit	Berry, Gerald A	40 - AMC Employee Entrance Turnstile North OUT	49 - AMC-ALL EMPLOYEES	No
11:09:22PM	Valid Entry	Berry, Gerald A	38 - AMC Employee Entrance Turnstyle South IN	49 - AMC-ALL EMPLOYEES	No
11:22:44PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:36:27PM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
11:38:01PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:39:21PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:40:44PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:42:09PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:46:30PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No

Total for 1/3/2006: 31**Total Access Attempts Reported: 42**

As of 12/14/2006 11:26:01AM

All Access Attempts History Report - Selected Cardholders
\\Vss-svr\Geoffrey\V5.0\DailyReports\TrnHis9.rpt

EXHIBIT Π

14000124010351

MANAGER
US POSTAL SERVICE
11600 IRVING PARK RD
CHICAGO IL 60666-9998

DATE 01-13-2006
00034701

*****AUTO** 3-DIGIT 606
GERALD A BERRY
4948 W GLADY AVE
CHICAGO IL 60644-5282



NON - VETERAN PREFERENCE ELIGIBILITY

January 18, 2006

SUBJECT: NOTICE OF REMOVAL

TO: Gerald A. Berry
F.T. Regular Clerk

SSN: 334 62 1669
Pay Location: 114

You are hereby given not less than thirty (30) days advance written notice of your removal from the Postal Service. The reason (s) for this removal action are:

You are charged with **Violating the Last Chance Settlement signed by you on November 18, 2004**, as evidenced by your unscheduled absences on:

01-09-06	8.00hrs. A/L
01-02-06	8.00hrs. AWOL
10-31-05 – 11-04-05	40.00hrs. AWOL

In addition as outlined below, you violated the Last Chance Removal Settlement stipulations.

3. You agreed to maintain satisfactory attendance during the term of this agreement. "Satisfactory attendance" for the purposes of this agreement is defined as no more than three (3) unscheduled absences during any six (6) month period of this agreement. That also means no instances of AWOL. Unscheduled absences are defined for the purposes of this agreement as "any absence not scheduled and approved in advance of your scheduled reporting time and it includes but is not limited to, tardiness, emergency leave (such as emergency annual or sick leave), leave without pay (LWOP) and failure to report/remain as scheduled for overtime work or holiday work."
5. You agree to meet all terms and conditions listed in this settlement for a period of two (2) years from the signing of this settlement.
6. It is agreed by all parties to this agreement that any violation of the terms or conditions of this agreement will result in the re-issuance of a removal. It is further understood that this settlement-agreement constitutes a **Last Chance** for you to correct your attendance problems.

Exh. b, T H

The following elements of your past record have been reviewed in taking this action:

04-23-04 Fourteen (14) day Suspension for Failure to Maintain a Regular Attendance Record.

11-05-03 Fourteen (14) day Suspension for Conduct Unbecoming.

11-21-02 Seven (7) day Suspension for Failure to Maintain a Regular Attendance Record.

01-24-02 Seven (7) day Suspension for Failure to Maintain a Regular Attendance Record.

01-24-01 Letter of Warning for Failure to Maintain a Regular Attendance Record.

You have the right to file a grievance under the Grievance -Arbitration procedure set forth in Article 15, Section 2 of the National Agreement within 14 days of your receipt of this notice.

If this action is overturned on appeal, back pay will be allowed, unless otherwise specified in the appropriate award or decision, ONLY IF YOU HAVE MADE REASONABLE EFFORTS TO OBTAIN OTHER EMPLOYMENT DURING THE RELEVANT NON-WORK PERIOD. The extent of documentation necessary to support your back pay claim is explained in the ELM, Section 436 (copy attached).

SIGNATURE OF SUPERVISOR

Edwin Muniz

Supervisor Distribution Operations
Tour 1 Leave Control

APPROVAL OF INSTALLATION
HEAD OR DESIGNEE

RECEIVED BY EMPLOYEE

DATE 1/20/05 TIME 4:39